

MEDICAID FALSE CLAIMS ACT

AMENDMENTS

2007 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Bradley G. Last

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends the Medicaid False Claims Act in the Health Code.

Highlighted Provisions:

This bill:

- ▶ amends definitions;
- ▶ clarifies the required mental state for a civil and a criminal prosecution;
- ▶ amends penalties for a violation of the act;
- ▶ grants concurrent civil enforcement authority to the attorney general and the

Department of Health;

- ▶ provides a statute of limitations period;
 - ▶ establishes burden of proof for civil actions;
 - ▶ gives authority to issue civil investigative demands;
 - ▶ establishes an Attorney General Medicaid Fraud Restricted Account consisting of
- money recovered from civil penalties for violations of the act; and
- ▶ amends the duties of the attorney general.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None



28 **Utah Code Sections Affected:**

29 AMENDS:

- 30 **26-20-1**, as enacted by Chapter 126, Laws of Utah 1981
- 31 **26-20-2**, as last amended by Chapter 46, Laws of Utah 1986
- 32 **26-20-5**, as enacted by Chapter 126, Laws of Utah 1981
- 33 **26-20-7**, as last amended by Chapter 92, Laws of Utah 1987
- 34 **26-20-9**, as enacted by Chapter 46, Laws of Utah 1986
- 35 **26-20-9.5**, as last amended by Chapter 92, Laws of Utah 1987
- 36 **26-20-13**, as enacted by Chapter 316, Laws of Utah 2000
- 37 **67-5-1**, as last amended by Chapters 130, 235 and 242, Laws of Utah 2002

38 ENACTS:

- 39 **26-20-14**, Utah Code Annotated 1953
- 40 **26-20-15**, Utah Code Annotated 1953
- 41 **26-20-16**, Utah Code Annotated 1953

42 REPEALS AND REENACTS:

- 43 **26-20-4**, as last amended by Chapter 46, Laws of Utah 1986
- 44 **26-20-12**, as enacted by Chapter 46, Laws of Utah 1986



46 *Be it enacted by the Legislature of the state of Utah:*

47 Section 1. Section **26-20-1** is amended to read:

48 **CHAPTER 20. UTAH FALSE CLAIMS ACT**

49 **26-20-1. Title.**

50 This chapter [~~shall be known and may be cited~~] is known as the "Utah False Claims
51 Act."

52 Section 2. Section **26-20-2** is amended to read:

53 **26-20-2. Definitions.**

54 As used in this chapter:

55 (1) "Benefit" means the receipt of money, goods, or any other thing of pecuniary value.

56 (2) "Claim" means any request or demand for money or property:

57 (a) made to any:

58 (i) employee, officer, or agent of the state;

- 59 (ii) contractor with the state; or
 60 (iii) grantee or other recipient, whether or not under contract with the state; and
 61 (b) if:
 62 (i) any portion of the money or property requested or demanded was issued from or
 63 provided by the state; or
 64 (ii) the state will reimburse the contractor, grantee, or other recipient for any portion of
 65 the money or property.

66 ~~[(2)]~~ (3) "False statement" or "false representation" means a wholly or partially untrue
 67 statement or representation which is knowingly [and willfully] made [if the person making the
 68 statement or representation has knowledge of the falsity thereof].

69 ~~[(3)]~~ (4) "Knowing" and "knowingly" ~~[mean that a person is aware of the nature of his~~
 70 ~~conduct and that his conduct is substantially certain to cause the intended result.];~~

71 (a) for purposes of criminal prosecutions for violations of this chapter, is one of the
 72 culpable mental states described in Subsection 26-20-9(1); and

73 (b) for purposes of civil prosecutions for violations of this chapter, is the required
 74 culpable mental state as defined in Subsection 26-20-9.5(1).

75 ~~[(4)]~~ (5) "Medical benefit" means a benefit paid or payable to a recipient or a provider
 76 under a program administered by the state under:

77 (a) Titles V and XIX of the federal Social Security Act[;];

78 (b) Title X of the federal Public Health Services Act[;];

79 (c) the federal Child Nutrition Act of 1966 as amended by P.L. 94-105; and

80 (d) any programs for medical assistance of the state.

81 ~~[(5)]~~ (6) "Person" means an individual, corporation, unincorporated association,
 82 professional corporation, partnership, or other form of business association.

83 Section 3. Section **26-20-4** is repealed and reenacted to read:

84 **26-20-4. Kickbacks or bribes prohibited.**

85 (1) For purposes of this section, kickback or bribe includes rebates, compensation, or
 86 any other form of remuneration which is:

87 (a) direct or indirect;

88 (b) overt or covert; or

89 (c) in cash or in kind.

90 (2) A person may not solicit, offer, pay, or receive a kickback or bribe in return for or
91 to induce:

92 (a) the purchasing, leasing, or ordering of any goods or services for which payment is
93 or may be made in whole or in part pursuant to a medical benefit program; or

94 (b) the referral of an individual to another person for the furnishing of any goods or
95 services for which payment is or may be made in whole or in part pursuant to a medical benefit
96 program.

97 Section 4. Section **26-20-5** is amended to read:

98 **26-20-5. False statements or false representations relating to qualification of**
99 **health institution or facility prohibited -- Felony.**

100 (1) A person [~~shall~~] may not knowingly [~~and willfully~~], intentionally, or recklessly
101 make, [~~or~~] induce, or seek to induce, the making of a false statement or false representation of a
102 material fact with respect to the conditions or operation of an institution or facility in order that
103 the institution or facility may qualify, upon initial certification or upon recertification, as a
104 hospital, skilled nursing facility, intermediate care facility, or home health agency.

105 (2) A person who violates this section is guilty of a second degree felony.

106 Section 5. Section **26-20-7** is amended to read:

107 **26-20-7. False claims for medical benefits prohibited.**

108 (1) [~~No~~] A person may not make or present or cause to be made or presented to an
109 employee or officer of the state a claim for a medical benefit[~~, knowing the claim to be~~];

110 (a) which is wholly or partially false, fictitious, or fraudulent[-];

111 [~~(2) In addition, no person shall knowingly;~~]

112 [~~(a) file a claim for a medical benefit]~~

113 (b) for services which were not rendered or for items or materials which were not
114 delivered;

115 [~~(b) file a claim for a medical benefit]~~

116 (c) which misrepresents the type, quality, or quantity of items or services rendered;

117 [~~(c) file a claim for a medical benefit]~~

118 (d) representing charges at a higher rate than those charged by the provider to the
119 general public;

120 [~~(d) file a claim for a medical benefit]~~

121 (e) for items or services which the person or the provider knew were not medically
 122 necessary in accordance with professionally recognized standards;

123 ~~(e) file a claim for a medical benefit]~~

124 (f) which has previously been paid;

125 ~~[(f) fail to credit the state for payments received from other sources;]~~

126 (g) ~~[file a claim for a medical benefit]~~ for services also covered by one or more private
 127 sources when the person or provider knew of the private sources without disclosing those
 128 sources on the claim; or

129 (h) where a provider:

130 (i) unbundles a product, procedure, or group of procedures usually and customarily
 131 provided or performed as a single billable product or procedure into artificial components or
 132 separate procedures; and

133 (ii) bills for each component of the product, procedure, or group of procedures:
 134 (A) as if they had been provided or performed independently and at separate times; and
 135 (B) the aggregate billing for the components exceeds the amount otherwise billable for
 136 the usual and customary single product or procedure.

137 (2) In addition to the prohibitions in Subsection (1), a person may not:

138 (a) fail to credit the state for payments received from other sources;

139 ~~[(h)]~~ (b) recover or attempt to recover payment in violation of the provider agreement
 140 from;

141 (i) a recipient under a medical benefit program[;]; or

142 (ii) the recipient's family [~~in violation of the provider agreement~~];

143 ~~[(i) file a claim for a medical benefit where a provider divides an accepted multiple~~
 144 ~~medical procedure into artificial components or single procedures requesting full medical~~
 145 ~~benefits for performing those component procedures as if they had each been performed~~
 146 ~~independently and at separate times;]~~

147 ~~[(j)]~~ (c) falsify or alter with intent to deceive, any report or document required by state
 148 or federal law, rule, or Medicaid provider agreement;

149 ~~[(k)]~~ (d) retain any unauthorized payment as a result of acts described by this section;

150 or

151 ~~[(l)]~~ (e) aid or abet the commission of any act prohibited by this section.

152 Section 6. Section **26-20-9** is amended to read:

153 **26-20-9. Criminal penalties.**

154 (1) The culpable mental state required for a criminal violation of this chapter is
155 knowingly, intentionally, or recklessly as defined in Section 76-2-103.

156 ~~[(+)]~~ (2) The punishment for a criminal violation of any provision of this chapter,
157 except as provided under Section 26-20-5, is determined by the cumulative value of the funds
158 or other benefits received or claimed in the commission of all violations of a similar nature,
159 and not by each separate violation.

160 ~~[(2)]~~ (3) Punishment for criminal violation of this chapter, except as provided under
161 Section 26-20-5, is [as follows:] a felony of the second degree, felony of the third degree, class
162 A misdemeanor, or class B misdemeanor based on the dollar amounts as prescribed by
163 Subsection 76-6-412(1) for theft of property and services.

164 ~~[(a) as a felony of the second degree if the cumulative value of the funds or other~~
165 ~~benefits received or claimed in violation of this chapter exceeds \$1,000;]~~

166 ~~[(b) as a felony of the third degree if the cumulative value of the funds or other benefits~~
167 ~~received or claimed in violation of this chapter exceeds \$250 but does not exceed \$1,000;]~~

168 ~~[(c) as a class A misdemeanor if the cumulative value of the funds or other benefits~~
169 ~~received or claimed in violation of this chapter exceeds \$100 but does not exceed \$250; or]~~

170 ~~[(d) as a class B misdemeanor if the cumulative value of the funds or other benefits~~
171 ~~received or claimed in violation of this chapter does not exceed \$100.]~~

172 Section 7. Section **26-20-9.5** is amended to read:

173 **26-20-9.5. Civil penalties.**

174 (1) The culpable mental state required for a civil violation of this chapter is "knowing"
175 or "knowingly" which:

176 (a) means that person, with respect to information:

177 (i) has actual knowledge of the information;

178 (ii) acts in deliberate ignorance of the truth or falsity of the information; or

179 (iii) acts in reckless disregard of the truth or falsity of the information; and

180 (b) does not require a specific intent to defraud.

181 ~~[(+)]~~ (2) Any person who violates this chapter shall, in all cases, in addition to other
182 penalties provided by law, be [subject to the following civil penalties] required to:

183 (a) ~~[in all cases, shall be required to]~~ make full and complete restitution to the state of
 184 all ~~[medical benefits improperly obtained]~~ damages that the state sustains because of the
 185 person's violation of this chapter;

186 (b) ~~[in all cases, shall be required to]~~ pay to the state its costs of enforcement of this
 187 chapter in that case, including but not limited to the cost of investigators, attorneys, and other
 188 public employees, as determined by the ~~[Bureau of Medicaid Fraud;]~~ state; and

189 (c) ~~[may be required, in the discretion of the court, to]~~ pay to the state a civil penalty
 190 ~~[not to exceed]~~ equal to:

191 (i) ~~three times the amount of [value improperly claimed or received as a medical~~
 192 ~~benefit, or]~~ damages that the state sustains because of the person's violation of this chapter; and

193 ~~[(d) may be required, in the discretion of the court, to pay to the state a civil penalty of~~
 194 ~~up to \$2,000]~~

195 (ii) not less than \$5,000 or more than \$10,000 for each claim filed or act done in
 196 violation of this chapter.

197 ~~[(2)]~~ (3) Any civil penalties assessed under Subsection ~~[(1)]~~ (2) shall be awarded by the
 198 court as part of its judgment in both criminal and civil actions.

199 ~~[(3)]~~ (4) A criminal action need not be brought against a person in order for that person
 200 to be civilly liable under this section.

201 Section 8. Section **26-20-12** is repealed and reenacted to read:

202 **26-20-12. Violation of other laws.**

203 (1) The provisions of this chapter are:

204 (a) not exclusive, and the remedies provided for in this chapter are in addition to any
 205 other remedies provided for under:

206 (i) any other applicable law; or

207 (ii) common law; and

208 (b) to be liberally construed and applied to:

209 (i) effectuate the chapter's remedial and deterrent purposes; and

210 (ii) serve the public interest.

211 (2) If any provision of this chapter or the application of this chapter to any person or
 212 circumstance is held unconstitutional:

213 (a) the remaining provisions of this chapter shall not be affected; and

214 (b) the application of this chapter to other persons or circumstances shall not be
215 affected.

216 Section 9. Section **26-20-13** is amended to read:

217 **26-20-13. Medicaid fraud enforcement.**

218 (1) This chapter shall be enforced in accordance with this section.

219 (2) The department [~~shall be~~] is responsible for:

220 (a) (i) investigating and prosecuting [all] suspected civil violations of this chapter;
221 [and] or

222 (ii) referring suspected civil violations of this chapter to the attorney general for
223 investigation and prosecution; and

224 (b) promptly referring suspected criminal violations of this chapter to the attorney
225 general for criminal investigation and prosecution.

226 (3) The attorney general [~~shall be responsible for:~~] has:

227 (a) concurrent jurisdiction with the department for investigating and prosecuting
228 suspected civil violations of this chapter; and

229 [(a) investigating] (b) exclusive jurisdiction to investigate and prosecute all suspected
230 criminal violations of this chapter [that are reported to the attorney general by the department
231 or others];

232 [(b) promptly referring probable civil violations of this chapter that are not related to a
233 criminal investigation or prosecution to the department for civil investigation and prosecution;
234 and]

235 [(c) prosecuting criminal violations of this chapter.]

236 (4) The department and the attorney general share concurrent civil enforcement
237 authority under this chapter and may enter into an interagency agreement regarding the
238 investigation and prosecution of violations of this chapter in accordance with this section, the
239 requirements of Title XIX of the federal Social Security Act, and applicable federal regulations.

240 (5) Any violation of this chapter which comes to the attention of any state government
241 officer or agency shall be reported to the attorney general or the department. All state
242 government officers and agencies shall cooperate with and assist in any prosecution for
243 violation of this chapter.

244 Section 10. Section **26-20-14** is enacted to read:

245 26-20-14. Investigations -- Civil investigative demands.

246 (1) The attorney general may take investigative action under Subsection (2) if the
247 attorney general has reason to believe that:

248 (a) a person has information or custody or control of documentary material relevant to
249 the subject matter of an investigation of an alleged violation of this chapter;

250 (b) a person is committing, has committed, or is about to commit a violation of this
251 chapter; or

252 (c) it is in the public interest to conduct an investigation to ascertain whether or not a
253 person is committing, has committed, or is about to commit a violation of this chapter.

254 (2) In taking investigative action, the attorney general may:

255 (a) require the person to file on a prescribed form a statement in writing, under oath or
256 affirmation describing:

257 (i) the facts and circumstances concerning the alleged violation of this chapter; and

258 (ii) other information considered necessary by the attorney general;

259 (b) examine under oath a person in connection with the alleged violation of this
260 chapter; and

261 (c) in accordance with Subsections (7) through (18), execute in writing, and serve on
262 the person, a civil investigative demand requiring the person to produce the documentary
263 material and permit inspection and copying of the material.

264 (3) The attorney general may not release or disclose information that is obtained under
265 Subsection (2)(a) or (b), or any documentary material or other record derived from the
266 information obtained under Subsection (2)(a) or (b), except:

267 (a) by court order for good cause shown;

268 (b) with the consent of the person who provided the information;

269 (c) to an employee of the attorney general or the department;

270 (d) to an agency of this state, the United States, or another state;

271 (e) to a special assistant attorney general representing the state in a civil action;

272 (f) to a political subdivision of this state; or

273 (g) to a person authorized by the attorney general to receive the information.

274 (4) The attorney general may use documentary material derived from information
275 obtained under Subsection (2)(a) or (b), or copies of that material, as the attorney general

276 determines necessary in the enforcement of this chapter, including presentation before a court.

277 (5) (a) If a person fails to file a statement as required by Subsection (2)(a) or fails to
278 submit to an examination as required by Subsection (2)(b), the attorney general may file in
279 district court a complaint for an order to compel the person to within a period stated by court
280 order:

281 (i) file the statement required by Subsection (2)(a); or

282 (ii) submit to the examination required by Subsection (2)(b).

283 (b) Failure to comply with an order entered under Subsection (5)(a) is punishable as
284 contempt.

285 (6) A civil investigative demand must:

286 (a) state the rule or statute under which the alleged violation of this chapter is being
287 investigated;

288 (b) describe the:

289 (i) general subject matter of the investigation; and

290 (ii) class or classes of documentary material to be produced with reasonable specificity
291 to fairly indicate the documentary material demanded;

292 (c) designate a date within which the documentary material is to be produced; and

293 (d) identify an authorized employee of the attorney general to whom the documentary
294 material is to be made available for inspection and copying.

295 (7) A civil investigative demand may require disclosure of any documentary material
296 that is discoverable under the Utah Rules of Civil Procedure.

297 (8) Service of a civil investigative demand may be made by:

298 (a) delivering an executed copy of the demand to the person to be served or to a
299 partner, an officer, or an agent authorized by appointment or by law to receive service of
300 process on behalf of that person;

301 (b) delivering an executed copy of the demand to the principal place of business in this
302 state of the person to be served; or

303 (c) mailing by registered or certified mail an executed copy of the demand addressed to
304 the person to be served:

305 (i) at the person's principal place of business in this state; or

306 (ii) if the person has no place of business in this state, to the person's principal office or

307 place of business.

308 (9) Documentary material demanded in a civil investigative demand shall be produced
309 for inspection and copying during normal business hours at the office of the attorney general or
310 as agreed by the person served and the attorney general.

311 (10) The attorney general may not produce for inspection or copying or otherwise
312 disclose the contents of documentary material obtained pursuant to a civil investigative demand
313 except:

314 (a) by court order for good cause shown;

315 (b) with the consent of the person who produced the information;

316 (c) to an employee of the attorney general or the department;

317 (d) to an agency of this state, the United States, or another state;

318 (e) to a special assistant attorney general representing the state in a civil action;

319 (f) to a political subdivision of this state; or

320 (g) to a person authorized by the attorney general to receive the information.

321 (11) (a) With respect to documentary material obtained pursuant to a civil investigative
322 demand, the attorney general shall prescribe reasonable terms and conditions allowing such
323 documentary material to be available for inspection and copying by the person who produced
324 the material or by an authorized representative of that person.

325 (b) The attorney general may use such documentary material or copies of it as the
326 attorney general determines necessary in the enforcement of this chapter, including presentation
327 before a court.

328 (12) A person may file a complaint, stating good cause, to extend the return date for the
329 demand or to modify or set aside the demand. A complaint under this Subsection (12) shall be
330 filed in district court and must be filed before the earlier of:

331 (a) the return date specified in the demand; or

332 (b) the 20th day after the date the demand is served.

333 (13) Except as provided by court order, a person who has been served with a civil
334 investigative demand shall comply with the terms of the demand.

335 (14) (a) A person who has committed a violation of this chapter in relation to the
336 Medicaid program in this state, or to any other medical benefit program administered by the
337 state has submitted to the jurisdiction of this state.

338 (b) Personal service of a civil investigative demand under this section may be made on
339 the person described in Subsection (14)(a) outside of this state.

340 (15) This section does not limit the authority of the attorney general to conduct
341 investigations or to access a person's documentary materials or other information under another
342 state or federal law, the Utah Rules of Civil Procedure, or the Federal Rules of Civil Procedure.

343 (16) The attorney general may file a complaint in district court for an order to enforce
344 the civil investigative demand if:

345 (a) a person fails to comply with a civil investigative demand; or

346 (b) copying and reproduction of the documentary material demanded:

347 (i) cannot be satisfactorily accomplished; and

348 (ii) the person refuses to surrender the documentary material.

349 (17) If a complaint is filed under Subsection (16), the court may determine the matter
350 presented and may enter an order to enforce the civil investigative demand.

351 (18) Failure to comply with a final order entered under Subsection (17) is punishable
352 by contempt.

353 Section 11. Section **26-20-15** is enacted to read:

354 **26-20-15. Limitation of actions -- Civil acts antedating this section -- Civil burden**
355 **of proof -- Estoppel -- Joint civil liability -- Venue.**

356 (1) An action under this chapter may not be brought after the later of:

357 (a) six years after the date on which the violation was committed; or

358 (b) three years after the date an official of the state charged with responsibility to act in
359 the circumstances discovers the violation, but in no event more than ten years after the date on
360 which the violation was committed.

361 (2) A civil action under this chapter may be brought for acts occurring prior to the
362 effective date of this section if the limitations period set forth in Subsection (1) has not lapsed.

363 (3) In any civil action brought under this chapter the state shall be required to prove by
364 a preponderance of evidence, all essential elements of the cause of action including damages.

365 (4) Notwithstanding any other provision of law, a final judgment rendered in favor of
366 the state in any criminal proceeding under this chapter, whether upon a verdict after trial or
367 upon a plea of guilty or nolo contendere, shall estop the defendant from denying the essential
368 elements of the offense in any civil action under this chapter which involves the same

369 transaction.

370 (5) Civil liability under this chapter shall be joint and several for a violation committed
371 by two or more persons.

372 (6) Any action brought by the state under this chapter shall be brought in district court
373 in Salt Lake County or in any county where the defendant resides or does business.

374 Section 12. Section **26-20-16** is enacted to read:

375 **26-20-16. Attorney General Medicaid Fraud Account.**

376 (1) (a) There is created a restricted account within the General Fund known as the
377 "Attorney General Medicaid Fraud Account."

378 (b) (i) The Attorney General Medicaid Fraud Account consists of:

379 (A) all recoveries received by the state or its agencies from any judgment or settlement
380 of any alleged violation of this chapter which was a result of an investigation or prosecution by
381 the attorney general, minus the payment of restitution, costs, and fees pursuant to applicable
382 law, regulation, or contract; and

383 (B) interest on account monies.

384 (ii) The account created in Subsection (1)(b)(i) shall not exceed \$2 million at the end of
385 any fiscal year. If the money described in Subsection (1)(b)(i) exceeds \$2 million at the end of
386 any fiscal year, the money described in Subsection (1)(b)(i) that is in excess of \$2 million shall
387 be deposited into the General Fund.

388 (2) (a) Upon appropriation from the Legislature, monies from the Attorney General
389 Medicaid Fraud Account shall be used for the purpose of providing funds to pay for any costs
390 incurred by the attorney general for the investigation and prosecution of violations under this
391 chapter or other unlawful acts.

392 (b) The funds appropriated from the restricted account under Subsection (2)(a) shall be
393 in addition to other funds that may be appropriated by the Legislature to the attorney general
394 for the administration and enforcement of the laws of this state.

395 Section 13. Section **67-5-1** is amended to read:

396 **67-5-1. General duties.**

397 The attorney general shall:

398 (1) perform all duties in a manner consistent with the attorney-client relationship under
399 Section 67-5-17;

400 (2) except as provided in Sections 10-3-928 and 17-18-1, attend the Supreme Court
401 and the Court of Appeals of this state, and all courts of the United States, and prosecute or
402 defend all causes to which the state, or any officer, board, or commission of the state in an
403 official capacity is a party; and take charge, as attorney, of all civil legal matters in which the
404 state is interested;

405 (3) after judgment on any cause referred to in Subsection (2), direct the issuance of
406 process as necessary to execute the judgment;

407 (4) account for, and pay over to the proper officer, all moneys that come into the
408 attorney general's possession that belong to the state;

409 (5) keep a file of all cases in which the attorney general is required to appear, including
410 any documents and papers showing the court in which the cases have been instituted and tried,
411 and whether they are civil or criminal, and:

412 (a) if civil, the nature of the demand, the stage of proceedings, and when prosecuted to
413 judgment, a memorandum of the judgment and of any process issued whether satisfied, and if
414 not satisfied, the return of the sheriff;

415 (b) if criminal, the nature of the crime, the mode of prosecution, the stage of
416 proceedings, and when prosecuted to sentence, a memorandum of the sentence and of the
417 execution, if the sentence has been executed, if not executed, of the reason of the delay or
418 prevention; and

419 (c) deliver this information to the attorney general's successor in office;

420 (6) exercise supervisory powers over the district and county attorneys of the state in all
421 matters pertaining to the duties of their offices, and from time to time require of them reports of
422 the condition of public business entrusted to their charge;

423 (7) give the attorney general's opinion in writing and without fee to the Legislature or
424 either house, and to any state officer, board, or commission, and to any county attorney or
425 district attorney, when required, upon any question of law relating to their respective offices;

426 (8) when required by the public service or directed by the governor, assist any county,
427 district, or city attorney in the discharge of his duties;

428 (9) purchase in the name of the state, under the direction of the state Board of
429 Examiners, any property offered for sale under execution issued upon judgments in favor of or
430 for the use of the state, and enter satisfaction in whole or in part of the judgments as the

431 consideration of the purchases;

432 (10) when the property of a judgment debtor in any judgment mentioned in Subsection
433 (9) has been sold under a prior judgment, or is subject to any judgment, lien, or encumbrance
434 taking precedence of the judgment in favor of the state, redeem the property, under the
435 direction of the state Board of Examiners, from the prior judgment, lien, or encumbrance, and
436 pay all money necessary for the redemption, upon the order of the state Board of Examiners,
437 out of any money appropriated for these purposes;

438 (11) when in his opinion it is necessary for the collection or enforcement of any
439 judgment, institute and prosecute on behalf of the state any action or proceeding necessary to
440 set aside and annul all conveyances fraudulently made by the judgment debtors, and pay the
441 cost necessary to the prosecution, when allowed by the state Board of Examiners, out of any
442 money not otherwise appropriated;

443 (12) discharge the duties of a member of all official boards of which the attorney
444 general is or may be made a member by the Utah Constitution or by the laws of the state, and
445 other duties prescribed by law;

446 (13) institute and prosecute proper proceedings in any court of the state or of the
447 United States, to restrain and enjoin corporations organized under the laws of this or any other
448 state or territory from acting illegally or in excess of their corporate powers or contrary to
449 public policy, and in proper cases forfeit their corporate franchises, dissolve the corporations,
450 and wind up their affairs;

451 (14) institute investigations for the recovery of all real or personal property that may
452 have escheated or should escheat to the state, and for that purpose, subpoena any persons
453 before any of the district courts to answer inquiries and render accounts concerning any
454 property, examine all books and papers of any corporations, and when any real or personal
455 property is discovered that should escheat to the state, institute suit in the district court of the
456 county where the property is situated for its recovery, and escheat that property to the state;

457 (15) administer the Children's Justice Center as a program to be implemented in
458 various counties pursuant to Sections 67-5b-101 through 67-5b-107;

459 (16) assist the Constitutional Defense Council as provided in Title 63C, Chapter 4,
460 Constitutional Defense Council;

461 (17) pursue any appropriate legal action to implement the state's public lands policy

462 established in Subsection 63C-4-105(1);

463 (18) investigate and prosecute [~~criminal~~] violations of all applicable state laws relating
464 to fraud in connection with the state Medicaid program and any other medical assistance
465 program administered by the state, including violations of Title 26, Chapter 20, False Claims
466 Act[, ~~in accordance with Section 26-20-13~~];

467 (19) investigate and prosecute complaints of abuse, neglect, or exploitation of patients
468 at:

469 (a) health care facilities that receive payments under the state Medicaid program; and

470 (b) board and care facilities, as defined in the federal Social Security Act, 42 U.S.C.
471 Sec. 1396b(q)(4)(B), regardless of the source of payment to the board and care facility; and

472 (20) (a) report at least twice per year to the Legislative Management Committee on any
473 pending or anticipated lawsuits, other than eminent domain lawsuits, that might:

474 (i) cost the state more than \$500,000; or

475 (ii) require the state to take legally binding action that would cost more than \$500,000
476 to implement; and

477 (b) if the meeting is closed, include an estimate of the state's potential financial or other
478 legal exposure in that report.

Legislative Review Note
as of 1-8-07 2:05 PM

Office of Legislative Research and General Counsel

H.B. 242 - Medicaid False Claims Act Amendments

Fiscal Note

2007 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations. This bill creates a General Fund Restricted - Attorney General Medicaid Fraud Account, into which judgement and settlement awards can be deposited for use by appropriation. Appropriations can be made once award settlements are made to the account.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.

1/25/2007, 8:03:04 AM, Lead Analyst: Greer, W.

Office of the Legislative Fiscal Analyst